

Notice of Oral *Ex Parte* Presentation

June 27, 2002

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.,
Washington, DC 20554

Re: In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent
Local Exchange Carriers, CC Docket No. 01-338;

Implementation of the Local Competition Provisions of the Telecommunications
Act of 1996, CC Docket No. 96-98; and

Deployment of Wireline Services Offering Advanced Telecommunications
Capability, CC Docket No. 98-147.

Dear Ms. Dortch:

On Wednesday, June 26, 2002 Craig Barrett, CEO, Intel, Inc.; Mike Quigley, President of Alcatel Americas; Jim Hjartarson, President and CEO, Catena Networks; Rhett Dawson, President, Information Technology Industry Council; Matthew J. Flanagan, President, Telecommunications Industry Association; Robert Holleyman, President and CEO, Business Software Alliance; Gary Shapiro, President and CEO, Consumer Electronics Association; Doug Cooper, Catena Networks; Peter Pitsch, Intel, Inc.; and Grant Seiffert, Telecommunications Industry Association met with FCC Chairman Michael Powell; Marsha MacBride, Chief of Staff; Kyle Dixon, Wireline Legal Advisor; Jonathan Cody, Office of Plans and Policy; and interns Jun-Seong An, Kevin Lefton, Erica Platt, and Jacob (Tony) Regenstreif.

In the course of the discussion the company and trade association representatives made the following points:

- The High Tech Broadband Coalition (HTBC) represents the leading trade associations (BSA, CEA, ITI, NAM, SIA, and TIA) of the computer, telecommunications equipment, semiconductor, consumer electronic, software and manufacturing sectors.
- HTBC is unique -- a coalition of trade associations representing over 15,000 companies that participate in the non carrier broadband "value chain."
- HTBC is committed to the achievement of rapid and ubiquitous deployment of fast interactive, content-rich and affordable broadband services.
- It believes that the best way to reach universal adoption of broadband is strong broadband facilities-based competition among cable modem, wire line broadband (xDSL/fiber), satellite, fixed and wireless alternatives.

- The HTBC believes that the FCC should strive to achieve a minimal regulatory environment that encourages all companies to make the costly and economically risky investments in last mile broadband facilities we need to get the full benefits of the Internet.
- Specifically, it believes that the Commission should refrain from imposing unbundling obligations on new last mile broadband facilities, including fiber and DSL electronics deployed on the customer side of the central office.
- DSL services already face substantial competition from the market-leading cable modem service and emerging satellite and wireless broadband services.
- Minimizing these unbundling obligations will reward those who take the risk of investing and thereby promote facilities-based competition and deployment.
- A ruling on the broadband bundling reform should be the FCC's top priority--reform would boost not just the telecom industry but also manufacturers.
- The rulemaking record coupled with the recent *USTA* decision give the FCC the basis and authority to act expeditiously.
- The *USTA* decision regarding line sharing requires the Commission to consider intermodal competition as it applies the statutory standard for unbundling (that is, the "impair" standard in Section 251). This is the consumer-welfare enhancing standard.
- This approach is consistent with the approach articulated by the Chairman and other Commissioners and set forth in the FCC's various broadband proceedings.
- The decision does not unduly limit FCC authority.
- Given recent Supreme Court and DC Circuit Court decisions, the FCC continues to have broad authority to implement its statutory authority.
- The *USTA* decision is limited by its particular circumstances. The DC Circuit held that the FCC's interpretation of Section 251 failed to meet the Supreme Court's guidance previously set forth specifically on the unbundling issue in the *Iowa Utilities* case. This is not a typical *Chevron* case.
- If the FCC seeks *certiorari*, it could cast a cloud over its decision making process and create confusion for years as to how the impair standard should and will ultimately be applied.

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1/1206(b), an original and one copy of this letter are being submitted to the Secretary's Office and a copy is being provided to each of the above referenced FCC personnel. Please inform me if any questions should arise in connection with this filing.

Respectfully submitted,

/s/ Grant E. Seiffert

Grant E. Seiffert

HTBC

CC Dockets Nos. 01-338, 96-98, 98-147

June 27, 2002

cc:

Chairman Michael K. Powell

Marsha MacBride, Chief of Staff

Kyle Dixon, Wireline Legal Advisor, Office of the Chairman

Jonathan Cody, Office of Plans and Policy

Jun-Seong An, Intern

Kevin Lefton, Intern

Erica Platt, Intern

Jacob (Tony) Regenstreif, Intern